IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 419/2006
(LRs of Magaram Vs. State of Rajasthan & Ors.)

Date of Order : 30/08/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Natwar Vaishnav with Mr. Akhil Gupta for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioners, who are legal representative of Magaram, the complainant, have challenged the judgment and order dated 28.1.2006 passed by Additional Sessions Judge (Fast Track) Balotra, Headquarter-Barmer (for short 'the revisional Court' hereinafter) whereby the appeal filed by the non-petitioners No. 2 to 4 being Criminal Appeal No.32/05 (Old 20/02) as also the revision petition being Cr.Revision No.05/06 filed by legal representatives of complainant Magaram, were dismissed.

I have heard learned counsel for the petitioner. Carefully gone through the judgment and order dated 17.5.2002 passed by the Judicial Magistrate, Barmer (for short 'the trial court' hereinafter), in Criminal Case No.699/97, whereby the trial court convicted the non-petitioners No. 3 for the offences under Sections 323, 341 and 324 IPC and non-petitioners No.2 and 4 for the offences under Sections 323 and 341 IPC. However, instead of sentencing the non-petitioners at once to any imprisonment, they were released on probation under Section 4 of the Probation of Offenders Act, 1958 as also directed to pay a compensation under Section 5 of the said Act.

On careful perusal of the judgment and order of the trial court as also the revisional court, in my view, both the courts below concurrently found that the non-petitioners committed the offences noticed above and accordingly they were convicted. The grievance of the complainant petitioners, who are legal representative of complainant injured Magaram who alleged to have expired during the pendency of the case before the courts below, is that instead of convicting the non-petitioners for the offence under Section 326 IPC, they have been convicted for the offence under Section 324 IPC. I have carefully gone through the statement of doctor who examined the injured. The injury suffered by the complainant is by blunt object. In the

circumstances, therefore, both the courts were justified in convicting the accused non-petitioners for the offence under Section 324 IPC apart from other offences. It cannot be said that the orders impugned would result in serious miscarriage of justice or abuse of process of any Court.

The petition is, therefore, dismissed.

(H.R.PANWAR),J.

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